



Department of Pesticide Regulation



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Fresno County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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Performance Evaluation of the Fresno County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides a performance evaluation of Fresno County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for the fiscal year 2007/08. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Program Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the fiscal year, the following core areas of the Fresno County pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2007/08.

A) Restricted Materials Permitting

The restricted materials permitting program met DPR standards and work plan goals.

B) Compliance Monitoring

The compliance monitoring program met DPR standards and work plan goals.

C) Enforcement Response

The enforcement response program met DPR standards and work plan goals.

Summary Statement:

DPR's evaluation did not identify any deficiencies in the Fresno County Agricultural Commissioner's pesticide use program; the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting

Permit Issuance

Fresno County staff who issue restricted materials permits are experienced biologists and are knowledgeable of pesticide laws and regulations. Fresno County pesticide use enforcement staff possesses certificates/licenses in pesticide regulation and investigation and environmental monitoring. The pesticide enforcement staff is qualified to issue restricted materials permits. The most experienced biologists review the permits before they are issued to ensure they are accurate and complete.

Fresno County conducts oral interviews with the restricted materials permit applicant to determine if they are the operators of the property. If the applicant possesses a private applicator certificate or a qualified applicator license, the certificate numbers are listed on the restricted

materials permits. If they are not operators of the property, letters of authorization are required to be in possession of the permit applicant prior to the issuance of the permit.

Fresno County uses the Restricted Materials Management System (RMMS) to issue permits in addition to integrating a Geographic Information System, (GIS), mapping all permit sites and sensitive sites. When the permit is amended, the change is made and it is added to the permit file. Changes are entered into the RMMS program by the issuing biologist.

Prior to approving the use of a restricted material, the Fresno CAC compares the pesticide to the commodity to ensure pesticide is registered for use by using DPR's pesticide label database. The biologist issuing the restricted materials permit also will review any permit conditions that may apply to the pesticide and condition the permit and NOI if necessary. Digital maps are used to identify sensitive sites that include labor camps, residential areas, roadways, and schools. These maps are issued to the permit applicant when they apply for their pesticide permits.

The Fresno CAC issued approximately 5,135 restricted materials permits and operator IDs, and 64 non-agricultural permits in 2007/08. Fresno CAC staff completed annual training on the policies and procedures used to issue permits and properly identify sites.

DPR's evaluation determined that permits are:

- Issued only to qualified applicants
- Signed by authorized persons
- Issued for a one year to three year time period
- Permit amendments follow approved procedures

Site Evaluation

Notices of intent (NOIs) are received by fax machine, telephone (main office), answering machine, and a drop box located in the main office. Notices of intent are reviewed by certified pesticide enforcement staff and are compared to the electronic copy in the computer. One biologist remains in the main office each day and is responsible to review the days NOIs and issue permits. Each biologist in the field has mobile radios and cellular telephones and is often contacted to check sites in sensitive areas when NOIs are submitted. Sensitive sites include parks, residential areas, schools, hospitals, and labor camps. Biologists have the authority to accept or deny NOIs and contact the operator of the property and the pest control business when the NOI is denied.

The Fresno CAC has developed strict permit conditions for the use of metam sodium. The permit conditions vary for the use of metam sodium applied through sprinklers, drip, or shank methods. The buffer zones and water sealing methods are different for the various application methods and once a certain method is denied, a second method may be allowed in making the application. All fumigant applications near sensitive sites are inspected to assure the buffer zones are both accurate and adequate. Pre-application site evaluations are conducted above the 5% minimum base for fumigant and defoliant applications around sensitive sites.

Notices of intent listing defoliant materials that are restricted materials to be applied near sensitive sites are evaluated and denied if the site is too close to residential areas. The application may be denied, conditioned, or made using non-restricted pesticides. Phenoxy herbicide applications are also

evaluated when an NOI is submitted and are denied if near sensitive crops. Cutoff dates have been implemented that have prevented crop damage and losses due to several of the phenoxy herbicides including 2,4-D, MCPA, and Dicamba. When NOI are denied, the property operator and pest control business are notified and a denial form is completed and filed in the restricted materials permit file.

Approximately 14,714 NOIs were reviewed during the fiscal year, 1,303 pre-site application evaluation inspections were conducted, and 69 NOIs were denied.

The permits:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluates restricted materials permits and determines if the use of feasible alternatives was considered. The program reviews all NOIs in a timely manner and adequately monitored agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring

Inspections

Fresno County staff attended training sessions that included chemigation, well head protection, structural pest control, investigation procedures, investigative sampling, restricted materials permit issuance, inspection procedures, and oversight inspection procedures.

Biologists conducting pesticide use inspections issue a violation notice for any criteria item marked “No” on the inspection form. When worker safety non-compliances are found during an inspection, the biologist conducts a headquarters/employee safety inspection and any follow-up inspections required. The biologist also reviews the compliance history for the firm/person inspected and meets with the supervisor prior to issuing a violation notice. The supervisor is responsible for preparing the case file and notice of proposed action.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements
- Include interviews of employers and employees
- Adequately document violations
- Include appropriate follow-up inspections and procedures

Investigations

Fresno County staff conducting pesticide enforcement investigations attended the pesticide episode investigation training. The biologist with more experience is assigned to investigate all of the pesticide-related illnesses while the remaining staff investigates all other episodes. Staff with less experience will often assist more experienced staff with their investigations. All incidents or complaints associated to pesticides are investigated and written reports are completed in each case.

C) Enforcement Response

When non-compliances are found during inspections and investigations, Fresno County staff issues a notice of violation. The Biologist reviews the compliance history of each respondent and utilizes the enforcement guidelines to determine if enforcement action is warranted. The biologists are required to conduct follow-up inspections including a headquarters employer/employee inspection when worker safety non-compliances are found. Enforcement actions are taken when violations are found on incidents involving drift, pesticide related illnesses, or when required by the enforcement response regulations. The Fresno County supervisor in charge of the pesticide enforcement program works with DPR's enforcement branch liaison on implementing the enforcement response regulations, which includes enforcement options such as referral of cases to DPR or the local district attorney. **Enforcement actions are taken, and no decision reports are written.**

Fresno County took approximately 31 enforcement actions in fiscal year 2007/08.

The CAC enforcement program was found to:

- Initiate the appropriate action when violations are identified
- Sufficiently support compliance, enforcement and public protection actions

The CAC levies fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

Outreach and Training

Fresno County provided training and outreach sessions for pesticide safety to workers, school employees, growers, pesticide applicators, and farm labor contractors. The CAC staff will participate in California Agricultural Pest Control Advisors (CAPCA), Pesticide Applicators Professional Association (PAPA) and Farm Bureau meetings to provide outreach on laws and regulations regarding pesticide use and handling to licensed pest control businesses.